

AMENDED IN SENATE JUNE 6, 2002

AMENDED IN SENATE APRIL 10, 2002

AMENDED IN ASSEMBLY APRIL 16, 2001

AMENDED IN ASSEMBLY MARCH 26, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 468

Introduced by Assembly Member Firebaugh

February 21, 2001

An act to amend Section 14666.6 of, and to add Section 14666.8 to, the Government Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 468, as amended, Firebaugh. State property: access: telecommunications.

(1) Existing law requires the Director of General Services, with the approval of the state agency concerned, and the Director of Transportation to negotiate in the name of the state, access to state-owned property, including rights-of-way, for those purposes and subject to those conditions, limitations, restrictions, and reservations determined by the director to be in the interest of the state. Existing law provides that this requirement to negotiate access applies to telecommunications and information technologies.

This bill would require the Director of General Services to compile and maintain an inventory of state-owned real property that may be available for lease to providers of wireless telecommunications services

for location of wireless facilities. It would authorize the director to enter into an agreement for the lease of certain state-owned real property to any provider of wireless telecommunications services for location of its facilities, and would require that this lease, among other things, (1) provide for the use of the wireless provider's facilities located on the state-owned real property by any appropriate state agency if technically, legally, aesthetically, and economically feasible, and (2) facilitate, to the greatest extent possible, agreements among providers of wireless telecommunications services for ~~collocation~~ *colocation* of their facilities on state-owned real property.

This bill would provide that a wireless telecommunications facility located on state-owned real property pursuant to a lease that meets these requirements, *or agreements negotiated by the Director of Transportation for the placement of wireless telecommunications facilities on land or facilities owned or controlled by the Department of Transportation*, would not be subject to the requirements of any local zoning ordinance or regulation.

The bill would require that 10% of the revenues from fees collected pursuant to these provisions, except for revenues from fees from a lease agreement for access to Department of Transportation property or a lease agreement existing prior to January 1, 2003, be available, upon appropriation by the Legislature, to finance Digital Divide projects.

This bill would require the Governor's director of e-government, in consultation with representatives from community technology programs, as defined, advocacy groups, and community-based organizations, to develop, within 180 days of the effective date of the bill, criteria for selecting Digital Divide projects to be funded pursuant to the bill.

(2) ~~Existing law provides that any payments received for a grant or conveyance through land or facilities controlled by the Department of Transportation, including rights-of-way along the state highway system, shall be deposited in the State Transportation Fund.~~

~~This bill would provide that any funds generated from a lease agreement entered into for the placement of wireless telecommunications facilities on Department of Transportation property shall be kept in a separate account and used, upon appropriation by the Legislature, only for transportation-related purposes.~~

~~(3) This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Wireless telecommunications service is a critical part of
4 California's infrastructure.

5 (b) The rapid deployment of wireless telecommunications
6 facilities is critical to ensure network access and quality of service.

7 (c) It is in the public interest to minimize the aesthetic impact
8 of wireless telecommunications towers and facilities necessary to
9 support wireless networks.

10 (d) Use of property owned by the state, local government
11 agencies, and other public entities for location of wireless
12 telecommunications facilities will expedite deployment of
13 wireless telecommunications service and minimize the aesthetic
14 impact of wireless telecommunications towers and facilities.

15 (e) A certain percentage of people have the best information
16 technology that our society has to offer. These people have the
17 most powerful computers, the best telephone and fastest Internet
18 services, as well as a wealth of content and training relevant to their
19 lives. There is another group of people that have very little
20 technology or service, if any at all. The difference between these
21 two groups is what has been called the "Digital Divide."

22 (f) "Falling Through the Net: Toward Digital Divide
23 Inclusion," a report published by the United States Department of
24 Commerce, determined that although more than one-half of all
25 households have computers and more than one-half of all
26 Americans were expected to be using the Internet by the middle of
27 2001, a Digital Divide remains or has expanded slightly in some
28 cases.

29 (g) Today, a large number of Americans are using the Internet
30 to conduct daily activities, including, but not limited to,
31 communication, shopping, entertainment, job searches, *job*
32 training, and ~~education~~ *educational enhancement*. To be on the
33 less fortunate side of the Digital Divide means that individuals are
34 not able to participate in the world's new information-based
35 economy. Even worse is that with the growth of the

1 information-based economy, people who lack access to those tools
2 are becoming disadvantaged.

3 (h) *Even with access to computers and the Internet, a divide is*
4 *emerging with relevant content and information available on the*
5 *Internet, as reported in The Children's Partnership's "Online*
6 *Content for Low-Income and Underserved Americans: The*
7 *Digital Divide's New Frontier."* This report audited the content
8 *available on the Internet and found that little content could be*
9 *found that addresses the interests and needs of local information*
10 *users, including needs of adults with limited literacy, that is*
11 *provided in a culturally relevant manner, or that is available in a*
12 *variety of languages.*

13 (i) Raising the level of digital access by increasing the number
14 of Californians using the technology tools of the digital age is a
15 high priority in the State of California.

16 (j) *Community technology programs serve Californians who*
17 *do and do not have computers and the Internet at home by*
18 *providing open access to, and opportunities for, training in*
19 *technology.*

20 (k) *Community technology programs that are trusted and*
21 *familiar places in neighborhoods are capable of attracting people*
22 *who would not otherwise have the opportunity to learn about and*
23 *use technology.*

24 (l) *According to the United States Department of Labor, Bureau*
25 *of Labor Statistics, employment in multimedia occupations is*
26 *projected to grow the fastest and increase more, by 5.3 million*
27 *workers, than any other major group over the 1998–2008 period.*

28 (m) *Community technology programs prepare Californians for*
29 *the digital age and the ensuing economic opportunities that fuel*
30 *California's economy and make it the leader in technology.*

31 SEC. 2. Section 14666.6 of the Government Code is amended
32 to read:

33 14666.6. (a) With the approval of the state agency concerned,
34 the director shall negotiate in the name of the state, access to
35 state-owned property, not used for highway purposes, for those
36 purposes and subject to those conditions, limitations, restrictions,
37 and reservations determined by the director to be in the best
38 interest of the state. To the extent permitted under existing law, the
39 director shall determine the amount of consideration for, and
40 means of access, which means shall include, but not be limited to,

1 any of the following: lease, permit, or other form of providing a
2 monetary or service consideration for the access.

3 (b) The Director of Transportation shall negotiate in the name
4 of the state, access to state-owned highway rights-of-way, for
5 those purposes and subject to those conditions, limitations,
6 restrictions, and reservations determined by the Director of
7 Transportation to be in the best interest of the state. To the extent
8 permitted under existing law, the Director of Transportation shall
9 determine the amount of consideration for, and means of access,
10 which means shall include, but not be limited to, any of the
11 following: lease, permit, or other form of providing a monetary or
12 service consideration for the access.

13 (c) This section applies to various telecommunications and
14 information technologies, including, but not limited to, voice,
15 data, video, and fiber-optic technologies.

16 ~~(d) (1) Except as provided in paragraph (2), any payments~~

17 *(d) Any payments* received under this section for a grant or
18 conveyance through land or facilities controlled by the
19 Department of Transportation, including but not limited to,
20 rights-of-way along the state highway system, shall be deposited
21 in the State Transportation Fund.

22 ~~(2) Any funds generated from a lease agreement entered into~~
23 ~~pursuant to Section 14666.8 for the placement of wireless~~
24 ~~telecommunications facilities on Department of Transportation~~
25 ~~property shall be kept in a separate account and used, upon~~
26 ~~appropriation by the Legislature, only for transportation-related~~
27 ~~purposes.~~

28 *(e) Agreements negotiated by the Director of Transportation*
29 *for the placement of wireless telecommunications facilities on land*
30 *or facilities owned or controlled by the Department of*
31 *Transportation shall not be subject to the requirements of any local*
32 *zoning ordinance or regulation.*

33 SEC. 3. Section 14666.8 is added to the Government Code, to
34 read:

35 14666.8. (a) The director shall, within 120 days of the
36 effective date of this section, compile and maintain an inventory
37 of state-owned real property that may be available for lease to
38 providers of wireless telecommunications services for location of
39 wireless telecommunications facilities. This inventory shall be the

1 state's sole inventory of state-owned real property available for
2 this purpose.

3 (b) The director shall make the inventory available on the
4 department's Web site.

5 (c) On behalf of the state, the director may negotiate and enter
6 into an agreement to lease state-owned real property, not subject
7 to an existing state franchise, to any provider of wireless
8 telecommunications services for location of its facilities. A lease
9 for this purpose shall do all of the following:

10 (1) Provide for a reasonable rental fee to be paid to the state to
11 the extent permitted under existing law.

12 (2) Designate a lease term that is acceptable to the director.

13 (3) Provide for the use of the wireless provider's facilities
14 located on the state-owned real property by any appropriate state
15 agency if technically, legally, aesthetically, and economically
16 feasible.

17 (4) Facilitate, to the greatest extent possible, agreements
18 among providers of wireless telecommunications services for
19 collocation of their facilities on state-owned real property.

20 (d) A wireless telecommunications facility located on
21 state-owned real property pursuant to a lease that meets the
22 requirements of subdivision (c) shall not be subject to the
23 requirements of any local zoning ordinance or regulation.

24 (e) The director shall develop and distribute materials for use
25 by local government agencies that encourage these agencies to
26 compile and maintain inventories of local agency owned real
27 property that may be available to providers of wireless
28 telecommunications services for the location of wireless
29 telecommunications facilities.

30 (f) (1) Of the revenues from fees collected pursuant to this
31 section after January 1, 2003, except for revenues from fees from
32 a lease agreement for access to Department of Transportation
33 property or a lease agreement existing prior to January 1, 2003, 10
34 percent shall be available, upon appropriation by the Legislature,
35 for the purpose of addressing the state's Digital Divide. These
36 revenues shall be maintained in a separate fund account to be used
37 only for Digital Divide pilot projects.

38 (2) The Governor's director for e-government, *in consultation*
39 *with representatives from community technology programs,*
40 *advocacy groups, and community-based organizations,* shall

1 develop, within 180 days after the effective date of this section,
2 criteria for selecting Digital Divide projects for funding pursuant
3 to this subdivision. *In developing the criteria, the director shall*
4 *consider the income level, racial composition, need, and*
5 *geographic location of the community in which the project serves*
6 *and other relevant criteria.*

7 (3) The first ~~three~~ four pilot projects selected for funding based
8 on these criteria, upon appropriation by the Legislature, shall
9 include *one statewide program currently engaged in technology*
10 *diffusion with centers located in both rural and urban communities*
11 *and one for a city in each of the following: Orange County,*
12 *southeast Los Angeles, and a northern California bay area county.*
13 The Governor's annual budget proposal shall include funding for
14 these three projects and all future Digital Divide projects.

15 (4) "Community technology programs" means a
16 *community-based, nonprofit organization that is exempt from*
17 *taxation under Section 501(c)(3) of the Internal Revenue Code and*
18 *engaged in diffusing technology in local communities and training*
19 *local communities in the use of technology, especially local*
20 *communities that otherwise would have no access or limited*
21 *access to the Internet and other technologies.*

22 (5) "Digital Divide projects" means *community technology*
23 *programs involved in activities that include, but are not limited to,*
24 *the following:*

25 (A) *Providing open access to and opportunities for training in*
26 *technology.*

27 (B) *Developing content relevant to the interests and wants of*
28 *the local community.*

29 (C) *Preparing youth for opportunities in the new economy*
30 *through multimedia training and skills.*

31 (D) *Harnessing technology for e-government services.*

32 SEC. 4. This act is an urgency statute necessary for the
33 immediate preservation of the public peace, health, or safety
34 within the meaning of Article IV of the Constitution and shall go
35 into immediate effect. The facts constituting the necessity are:

36 In order to make state-owned real property available for lease
37 at the earliest possible time, it is necessary for this act to go into
38 immediate effect.